

### REMARKS

Claims 12-18 and 20-31 are pending in this application. Independent claims 12 and 25 are amended in a manner consistent with discussions held during a recent Examiner Interview. Support for the amendments to claims 12 and 25 may be found through the entirety of the specification and figures, but at least by page 5, lines 16-20 and Figs. 1, 2 and 6.

The Applicants have thoroughly reviewed the outstanding Office Action including the Examiner's remarks and references cited therein. The following amendments and remarks are believed to be fully responsive to the Office Action. All the pending claims at issue are believed to be patentable over the cited references. Withdrawal of all outstanding rejections is respectfully requested in view of the foregoing amendments and following remarks.

#### Interview Summary

An interview was held with the Examiner and Applicant's representative on June 26, 2008. During the interview, the cited art of record was discussed and distinguished as being nonanalogous art to the field of wall base as stated in the preamble of independent claims 12 and 25. The Examiner found the Applicant's representatives arguments to be persuasive but indicated that additional structure should be added to the claim. In addition, the Examiner found additional art during the interview and requested that this art be considered by the Applicant in preparing any claim amendments. The art cited by the Examiner was U.S. Patent No. 5,775,016 and U.S. Printed Publication No. 2001/0013185. Proposed changes to claim 12 were discussed. As a result of the conversation with the Examiner, independent claims 12 and 25 have been amended in a manner intended to reflect the Examiner's suggestions.

#### 35 U.S.C. § 102(b)

#### **Claims 25-28**

Claims 25-28 are rejected under 35 U.S.C. § 102(b) as being anticipated by Nemzin et al. (U.S. Patent No. 5,223,316) ("Nemzin"). The Examiner relies on Nemzin to teach all aspects of the claims. This rejection is respectfully traversed in view of the following remarks.

The preamble of claim 25 is limited to "wall base." The preamble limits the claimed invention to structural material that can be used as wall base. Thus, the framework against which patentability is measured is not all base elements broadly but base elements suitable for use as

wall base. Wall base has a generally accepted meaning in the building, flooring and carpeting industry. (Specification, page 5, lines 1-6). An internet search for the word “wall base” readily reveals the generally accepted understanding of what wall base is. To this end, Nemzin does not disclose wall base, and thus does not anticipate the invention defined in claim 25.

Furthermore, claim 25 has been amended to add additional structural details regarding “a mounting surface adapted to secure to a wall and an overlaying portion adapted to overlap a portion of a floor.” Nemzin clearly does not disclose these features of claim 25.

Additionally, with reference to the newly cited references found by the Examiner during the Interview (U.S. Patent No. 5,775,016 (“Chien I”) and U.S. Printed Publication No. 2001/0013185 (“Chien II”), Chien I and Chien II also fail to disclose each and every limitation of claim 25. Chien I and II are directed to illuminated safety guides. Chien I and II do not disclose a wall base configured to “a donor element configured to be securably mounted within said defined sign a donor element configured to be securably mounted within said defined sign defined within said base element” as recited in lines 8-9. For at least this reason, Chien I and II do not anticipate claim 25.

Accordingly, the Applicant submits that claim 25 is not anticipated by Nemzin or Chien I or II, and that claim 25 is in condition for allowance. Since claims 26-28 depend from claim 25 and claims which depend from an allowable claim are also deemed to be allowable, claims 26-28 are also deemed to be in condition for allowance by virtue of their dependency from believed allowable claim 25. Therefore, withdrawal of the rejection of claims 25-28 over Nemzin is respectfully requested.

35 U.S.C. § 103

**Claims 12-16 and 20, 21, 23, 24**

Claims 12-16 and 20, 21, 23, 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Studen (U.S. Patent No. 3,280,499) in view of Nemzin. These rejections are respectfully traversed.

Similarly to claim 25 discussed above, claim 12 is directed to a “wall base” and recites “a mounting surface adapted to secure to a wall and an overlaying portion adapted to overlap a portion of a floor.” Neither Studen nor Nemzin separately or in combination teach or suggest the claimed combination in claim 12. Further, Studen and Nemzin both relate to children’s games

or puzzles (Studen: col. 4, lines 35-41; Nemzin: col. 1, lines 52-57). Children's games have no relationship to the field of wall base, which has an accepted meaning in the building, flooring, and carpeting industries (page 5, lines 11-16). Thus one of ordinary skill in the art would not look to the art of children's games and think it obvious to modify the games to come up with the new wall base recited in claim 12.

For at least these reasons, the Applicant submits that claim 12 is nonobvious over Studen in view of Nemzin.

With respect to the newly cited references found by the Examiner during the Interview, Chien I and Chien II, the Applicant respectfully submits that there is no motivation to modify the cited children's games of Studen and Nemzin in view of the illuminated safety guide of Chien I and Chien II to come up with the recited combination of claim 12.

Therefore, in view of the above, the Applicant submits that claim 12 is nonobvious over Studen in view of Nemzin separately or in combination with Chien I or II, and that claim 12 is in condition for allowance. Since claims 13-16, 20, 21, 23 and 24 depend from claim 12, and claims which depend from an allowable claim are also deemed to be allowable, claims 13-16, 20, 21, 23 and 24 are also deemed to be in condition for allowance by virtue of their dependency from believed allowable claim 12. Therefore, withdrawal of the rejection of claims 12-16 and 20, 21, 23, 24 over Studen in further view of Nemzin is respectfully requested.

### **Claims 17 and 29-31**

Claims 17 and 29-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Studen (U.S. Patent No. 3,280,499) in view of Nemzin as applied to claim 12 above, and in further view of Forbes et al. (U.S. Patent 6,626,678). Applicant respectfully traverses this rejection.

Claim 17 depends from independent claim 12, and claims 29-31 depend from claim 25. As discussed above, claims 12 and 25 have been amended in a manner believed to place claim 12 and 25 in condition for allowance over Studen in view of Nemzin. Since claims which depend from an allowable claim are also considered to be in condition for allowance, claims 17 and 29-31 are also submitted to be in condition for allowance.

Accordingly, the Applicant respectfully requests that the rejection of claims 17 and 29-31 under 35 U.S.C. § 103(a) be withdrawn.

**Claims 12 and 18**

Claims 12 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Studen (U.S. Patent No. 3,280,499) in view of Nemzin as applied to claim 12 above, and in view of in further view of Wright. (U.S. Patent 2,535,619). Applicant respectfully traverses this rejection.

Claim 18 depends from claim 12, and as discussed above, claim 12 has been amended in a manner believed to place claim 12 in condition for allowance over Nemzin in view of Studen. Obviously, Wright does not cure the deficiencies of Studen in combination with Nemzin. Therefore, Applicant submits that claim 12 is allowable over Studen, in view of Nemzin in view of Wright, and that claim 18 is allowable by virtue of its dependency from believed allowable claim 12.

Therefore, the Applicant respectfully requests that the rejection of claims 12 and 18 under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

All rejections and objections having been addressed, it is respectfully submitted that the above-identified application is in condition for allowance. An early and favorable action on the merits is respectfully requested. If the Examiner believes that the application is not in condition for allowance, the Applicant respectfully requests that the Examiner contact the undersigned by telephone in order to expedite prosecution of the application.

It is believed no fee is due in the filing of this Response; however, if the Commissioner deems it necessary, please charge any deficiency or credit any overpayment to Deposit Account 50-2036, referencing attorney docket no. 15998.000023.

Respectfully submitted,

BAKER & HOSTETLER LLP

By: Barbara M. Flaherty  
Barbara M. Flaherty  
Reg. No. 41,019

Dated: July 23, 2008  
Washington Square, Suite 1100  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036-5304  
Telephone: 202-861-1754  
Facsimile: 202-861-1783